

SENATE BILL 3284
By Graves

AN ACT to create a civil service commission for the sheriff's department in Sumner County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) There is created a Sumner County sheriff's department civil service commission (the "commission"). The commission will consist of five members. Two members shall be appointed by the county legislative body of Sumner County. Two members shall be selected by a majority vote of the classified employees of the Sumner County sheriff's department. The fifth member shall be selected by the Sumner County sheriff.

(b) Commission members shall be at least twenty-one (21) years of age and shall have been a resident of Sumner County for at least four (4) years. Commission members shall serve for a term of two (2) years except for the initial term of office for the following: one (1) of the commission members appointed by the county legislative body shall serve a three (3) year term; one (1) of the commission members elected by the classified employees of the sheriff's department shall serve a three (3) year term; and the commission member appointed by the sheriff shall serve a one (1) year term.

(c) Each commission member shall have equal power, and a majority vote of the commission members is necessary to authorize any commission action or decision. Three (3)

commission members shall constitute a quorum for the transaction of business. No commission member shall be an employee of Sumner County or hold any other elected or appointed position in any governing body or organized political party or be a member of the immediate family of any employee of the sheriff's department. "Immediate family" shall mean the following: spouse, children, or lineal descendants (parents, brothers, sisters, grandparents), aunts or uncles. Any vacancy in the commission shall immediately be filled for the remainder of the unexpired term in the same manner as the position was originally filled.

SECTION 2. Each commission member shall receive compensation as prescribed by the Sumner County legislative body. Each commission member shall be reimbursed for his or her necessary and reasonable expenses incurred in the discharge of official duties. The county legislative body of Sumner County shall make adequate financial provisions including stenographic services for the commission in the performance of its duties. The commission shall meet and conduct business on an "as needed" basis.

SECTION 3. The commission shall elect a chairperson who shall preside over all meetings, a vice chairperson to serve in the absence of the chairperson, and a secretary. The secretary shall keep complete and accurate records of all proceedings held by the commission in a minute book to be provided for this purpose. The secretary shall likewise keep a complete and accurate record of employment lists as provided in Section 5. Upon request, the sheriff will provide a sheriff's department employee to assist the commission secretary with clerical duties.

SECTION 4. All full-time employees of the sheriff's department, holding a classified position, as provided in Section 7, on the payroll of the sheriff's department on the effective date of this act shall be covered by the provisions of this act except as noted, and shall not be required to take an examination to continue in their present classified positions.

SECTION 5. (a) (1) After the effective date of this act, any person seeking employment with the sheriff's department for any classified position as hereinafter defined, with the exception noted below, shall first be examined and declared qualified by the commission.

(2) The examinations may be written or practical and shall be prepared by the commission on advice of the sheriff, and shall be comprehensive examinations related to the respective fields that they cover. The commission shall regularly hold competitive examinations for classified positions. Such examinations shall be offered annually to any applicant and more often as necessary. The commission shall cause notices to appear not less than thirty (30) days prior to the date set for such examinations. The notices shall contain a brief statement of classified positions for which examinations will be held, a brief statement of the subjects upon which the applicants will be examined, the time and place of the examinations and the duties required by such classified positions. The commission shall prepare a list of the persons declared qualified for each classified position, in the order of their excellence as determined by the examinations. If a vacancy occurs in a classified position, and upon request of the sheriff, the commission shall certify to the sheriff the names of the five (5) persons at the top of the list qualified for such vacancy. The sheriff may select any one (1) of the top five (5) persons for the classified position. The names of all rejected applicants shall be reinstated at the top of the qualified list for such classified position.

(3) On February 1st of each year, a new classified position list shall be established by examination and any applicant shall take such examination before he or she can be eligible for listing as an applicant for a classified position. This paragraph applies regardless whether a person was listed on a former classified position list.

(b) (1) After the effective date of this act, any classified employee seeking advancement or promotion with the sheriff's department for any classified position as hereinafter defined shall first be examined and declared qualified by the commission.

(2) The examinations may be written or practical and shall be prepared by the commission on advice of the sheriff, and shall be comprehensive examinations related to

the respective fields that they cover. The commission shall regularly hold competitive examinations for advancements and promotions.

(3) Such examinations shall be offered annually to any qualified classified employee and more often as necessary. The commission shall cause notices to appear not less than thirty (30) days prior to the date set for such examinations. The notices shall contain a brief statement of classified positions for which examinations will be held, a brief statement of the subjects upon which the applicants will be examined, the time and place of the examinations and the duties required by such classified positions. The commission shall prepare a list of the persons declared qualified for each classified position, in the order of their excellence as determined by the examinations. If a vacancy occurs in a classified position, and upon request of the sheriff, the commission shall certify to the sheriff the names of the three (3) persons at the top of the list qualified for such vacancy. The sheriff may select any one (1) of the top three (3) persons for the classified position and the names of all rejected applicants shall be reinstated at the top of the qualified list for such classified position.

SECTION 6. (a) No person holding any classified position of employment shall be discharged from the service of the sheriff's department or demoted except for just cause. "Just cause" is defined as failure to follow the policies and procedures of Sumner County, Tennessee, the Sumner County sheriff's department, and all state and federal laws, rules and regulations. It is expressly intended that engaging in any political activity or refusing to engage in any political activity shall not be just cause for discharge, suspension or demotion of any employee holding a classified position.

(b) All persons discharged or demoted shall have the right to be heard by the commission in his or her own defense, in person or by counsel, and the action of the sheriff in discharging or demoting such person shall be subject to the approval or disapproval of the commission. If the commission approves the discharge or demotion, the decision shall be final.

If such discharge or demotion is disapproved the employee shall be reinstated to such position with full pay and rights from the day of discharge or demotion. The sheriff shall have the authority to suspend any classified position holder in the sheriff's department for a period not exceeding one (1) consecutive fifteen (15) day period without approval of the commission; provided, where the suspension exceeds a consecutive three (3) day period the classified position holder shall have the right to request an appeal and review by the commission. Written request for hearing must be made within five (5) business days from date of discharge, demotion or suspension.

(c) Any person holding a classified position in the sheriff's department may be reduced in rank for just cause, but such action shall likewise be subject to the approval or disapproval of the commission upon appeal duly perfected as provided above.

(d) None of the provisions of this section shall apply to any classified position during the first twelve (12) months of employment. Such period is hereby declared to be a probationary period and such employee shall be for every purpose an "at will" employee.

(e) None of the provisions of this section shall apply to prevent the discharge of the holder of a classified position who was employed as the result of the resignation of the holder of a classified position to enter the armed forces, but upon the return of such holder from the armed forces, the holder of the position with the least seniority may be discharged, in which case such holder would revert to the classified position list.

SECTION 7. (a) The following positions within the sheriff's department are hereby declared to be classified positions within the meaning of this act provided the positions are full-time permanent positions: lieutenant, sergeant, deputy, detective/investigator, deputized clerical, office staff, communication officer, corrections officer, warrants officer, court officer, juvenile detention officer and cook.

(b) The sheriff may create additional classifications and positions after the Sumner County legislative body approves permanent funding to extend the classified positions.

The sheriff's administrative assistant/secretary, chief deputy, jail administrator, majors, and captains positions are not classified herein and as unclassified positions are not covered by the provisions of this act. The employees holding such positions are "at will" employees and serve at the pleasure of the sheriff.

SECTION 8. It shall be the duty of the commission to begin and conduct all civil suits that may be necessary for the proper enforcement of this act and of the rules of the commission and to defend all civil suits that may be brought against the commission. The commission shall be represented in such suits by the county attorney except in cases in which the county attorney may be an interested party. In such event, with permission of the Sumner County legislative body, the commission may employ special counsel, and the expense shall be borne by the county.

SECTION 9. In any investigation conducted by the commission, the commission shall have the power to subpoena and require the attendance of witnesses and the production by them of books, documents, computer records and audio or video recordings of any kind pertinent to the investigation and to administer oaths to such witnesses.

SECTION 10. Any person who obstructs or deceives any person in respect to his or her rights under this act, makes a false report or certificate, or bribe, or attempts to bribe any employee or member of the commission or in any other way fraudulently conducts him or herself to gain favor for any person or persons, shall be punishable by a civil penalty of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00).

SECTION 11. Immediate reports in writing shall be given to the commission by the sheriff of all occurrences that affect the status of classified positions or the performance of duties of all persons holding classified positions.

SECTION 12. The work day for the employees of the sheriff's department shall meet the requirements of the federal Fair Labor Standards Act.

SECTION 13. All members of the sheriff's department shall be entitled to retirement benefits as provided to other county employees.

SECTION 14. The sheriff shall designate the specific days that employees shall receive as paid holidays. Such holidays shall not be less than the number of holidays provided to county employees.

SECTION 15. Each member of the sheriff's department shall be entitled to benefits provided to other county employees; provided, that the county legislative body retains the absolute right to terminate or amend any plan of benefits.

SECTION 16. (a) It is the policy of the sheriff's department to promote classified employee efficiency, health and morale through periodic interruption from one's duties. Paid vacation leave is provided based on length of service as follows:

(1) Five (5) paid vacation days off per year after an employee has completed one (1) year of service.

(2) Ten (10) paid vacation days off per year after the employee has completed two (2) consecutive years of service.

(3) Fifteen (15) paid vacation days off per year after the employee has completed five (5) consecutive years of service.

(b) Annual leave may be used only at times approved in advance by the employee's supervisors and the sheriff.

(c) Accrued annual leave may be used for maternity leave.

SECTION 17. (a) A classified employee of the sheriff's department shall receive full pay during incapacity of him or herself or a minor child under eighteen (18) years of age residing in the home caused by illness, sickness or injury, for medical, dental or optical diagnosis and treatment or other similar needs subject to accrued sick leave time and approval of the employee's supervisor and/or the sheriff.

(b) Sick leave time may be taken in one (1) hour increments.

(c) Serious illness of the spouse, mother, father or child of a classified employee may be considered by the sheriff on a case-by-case basis for use of paid sick leave.

(d) Each permanent full-time employee shall accrue sick leave at the rate of one (1) work day per month with no maximum accumulation.

(e) Sick leave benefits shall commence on the first day of such absence and shall continue for as long as sick leave credit remains.

(f) To prevent abuse of sick leave privilege, supervisors are required to satisfy themselves that the employee is genuinely ill before sick leave is paid.

(g) The sheriff may require a doctor's certificate for any used sick leave, and any absence in excess of three (3) work days shall require a doctor's certificate to return to work, unless, in the opinion of the immediate supervisor, no such action is deemed appropriate.

(h) Any accumulated sick leave, in the event of approved retirement, shall be awarded toward employees' retirement as prescribed by county and state statutes.

(i) Accrued sick leave may be used as maternity leave.

(j) Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days.

SECTION 18. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Sumner County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the secretary of state.

SECTION 19. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 18.